

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI
(Aberdeen Divisional Office)**

IN RE:

SUSIE DAVIS
SS# XXX-XX-9679

DEBTOR(S)

CHAPTER 13

CASE NO. BK 12-13877-JDW13

**VANDERBILT MORTGAGE AND
FINANCE, INC.**

MOVANT(S)

VS.

SUSIE DAVIS,

AND

**PATRICIA BANKS,
CO-MAKER**

AND

**LOCKE D. BARLEY,
TRUSTEE**

RESPONDENT(S)

MOTION FOR RELIEF FROM STAY
AND CO-DEBTOR STAY BY VANDERBILT MORTGAGE AND FINANCE, INC.

COMES NOW Vanderbilt Mortgage and Finance, Inc., (hereinafter “Movant”), a secured creditor in the above bankruptcy proceeding and moves this Honorable Court to enter an Order granting relief from Section 362(d) and Section 1301(c) of the United States Bankruptcy Code to Movant so as to permit recovery of the collateral securing its claim and as grounds for said Motion states as follows:

1. Movant is a secured creditor in the above referenced Chapter 13 proceeding.

2. The Debtor financed the purchase of a 1996 Cavalier 16' x 80' Manufactured Home, VIN #ALCA0596680S32097 through Movant. Movant has a security interest in this manufactured home as evidenced by the documents attached hereto as Exhibit "A" and incorporated herein by reference.

3. There is a co-debtor (Patricia Banks) on the obligation evidenced by Movant's proof of claim and which is made the subject of this motion.

4. Movant will be irreparably harmed and injured by the continuation of the co-debtor's stay.

5. Debtor has failed to maintain insurance on the collateral as required by the loan documents.

6. Based on the forgoing, Movant asserts that it is not adequately protected, and unless Movant is granted relief from the automatic stay so as to repossess and dispose of the collateral, Movant will suffer irreparable harm and injury.

WHEREFORE, Movant moves this Honorable Court:

A. Enter an Order granting to Movant relief under 11 U.S.C. Section 362(d) and Section 1301(c) so as to permit Movant to pursue its state court remedies, repossess and dispose of the collateral securing its claim in accordance with its security agreement and the Uniform Commercial Code and thereafter amend its claim for the deficiency which may thereafter remain.

B. Movant further prays that upon final hearing of this Motion that the stay will be lifted automatically and that the fourteen (14) day waiting period of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure be waived.

C. Gives notice, pursuant to Section 1301(d) of the United States Bankruptcy Code, that unless a party in interest files and serves upon counsel to Vanderbilt Mortgage and Finance, Inc. a

written objection to its request for relief from Section 1301 within twenty (20) days of the filing of this Motion, such Motion shall be deemed granted without further order of this Court.

D. Movant prays for such other and further relief to which it may be entitled.

Date: October 16, 2013

/s/ Robin E. Pate

Robin E. Pate (MS BAR #103449)

Attorney for Vanderbilt Mortgage and Finance, Inc.

File No. 50340.970

OF COUNSEL

ROSEN ♦ HARWOOD, P.A.
2200 Jack Warner Parkway, Suite 200
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Tuscaloosa, Alabama 35403
Telephone: (205) 344-5000

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CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing upon the following:

By depositing a copy of same in a pre-addressed, stamped envelope with adequate postage prepaid thereon and properly addressed to the following:

Patricia Banks
Co-Maker
548 Anderson Street
Marks, MS 38646

Susie Davis
Debtor
679 Tyro Road
Holly Springs, MS 38635

Via the Court's Electronic mailing service (CM/ECF):

Locke D. Barkley
Trustee
Post Office Box 55829
Jackson, MS 39296-5829

Karen B. Schneller
Attorney for Debtor
P.O. Box 417
Holly Springs, MS 38635

This the 16th day of October, 2013.

/s/ Robin E. Pate

Robin E. Pate (MS BAR #103449)

Of Counsel for Vanderbilt Mortgage and Finance, Inc.

STATE OF TENNESSEE

§ AFFIDAVIT OF

§

COUNTY OF BLOUNT

§ ALECIA RANKIN

Before me, the undersigned authority, personally appeared Alecia Rankin, hereinafter referred to as Affiant, who being known to me and being first duly sworn, deposes and says as follows:

1. My name is Alecia Rankin and I am employed by Vanderbilt Mortgage and Finance, Inc. (hereinafter "Movant"). I have personal knowledge of the facts stated herein, and I am custodian of any records attached hereto. I have a personal understanding of how the books, records and computer systems relating to loan servicing at Movant function and how they relate to the bankruptcy proceeding filed by Susie Davis (hereinafter "Debtor(s)"). Among my responsibilities as an employee of Movant is to monitor the processing of payments and other requirements of the Debtor(s) under the terms of the Debtor's *Retail Installment Contract and Security Agreement*.


2. The Debtor(s) executed a *Retail Installment Contract and Security Agreement* (hereinafter "Contract") to Movant, which is secured by property being more particularly described in Movant's Motion for Relief on file and as evidenced by the Contract and in Movant's Motion for Relief from the Automatic Stay filed contemporaneously therewith. Movant is the current holder of said Contract. True and correct copies of the documents evidencing the perfection of Movant's security interest in the property are attached to the Motion for Relief From Stay as Exhibit "A". As of the date of this Affidavit, the aggregate amount due and owing Movant under the terms of the Contract is \$22,638.32.

3. Pursuant to the terms of the Contract, Debtor(s) are to maintain comprehensive insurance coverage, listing Movant as a loss-payee, for the property securing the Debtor(s)' obligations under the Contract. The current status of insurance coverage is checked below:

☒ The Debtor(s) have failed to maintain insurance coverage and at the time of the execution of this Affidavit, Movant is unaware of any insurance coverage in place for the said property.

☐ There is acceptable insurance coverage in force on the said property.

4. The information contained herein and in the Exhibits attached to Movant's Motion for Relief from Stay is based upon business records that Movant keeps in the ordinary course of its business, made at or near the time of the facts stated thereby, which Movant keeps, maintains and generates as part of its ordinary course of business. All of the above statements are true and correct and stated as facts based upon my own personal knowledge.


AFFIANT
Vanderbilt Mortgage and Finance, Inc.

SWORN TO and SUBSCRIBED before me on this the 16th day of October, 2013.


Notary Public

My Commission Expires: 3/26/17

